

REMARKS

I. Claim Status

Claims 1-17, 19-32, 52-57, 59, 73, and 76-92 are pending in the present application. Claims 26-27 and 29 have been amended. Claims 1-17, 19-25, 28, 52-57, 59, 73, and 76-92 have been cancelled without prejudice or disclaimer. Upon entry of the present amendment, claims 26-27 and 29-32 will be under examination. Reconsideration of the pending claims in view of the following arguments and remarks is respectfully requested.

II. Withdrawn Rejections

Applicants acknowledge the Examiner's withdrawal of the previous rejections of claims 1-17, 19, 53-57, 59, 76-80, 90-92 under 35 U.S.C. 102(e) as being anticipated by King et al. (US patent application 20030039660) ("King '660").

III. Allowable Subject Matter and Amendments To The Claims

The Examiner has stated that claims 26-27 and 29-32 are objected to as being dependent upon a rejected base case, but would otherwise be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 26-27 and 29 have been amended accordingly. Thus, it is believed that the present amendments are in compliance with 37 C.F.R. §1.116, since claims 1-17, 19-25, 28, 52-57, 59, 73, and 76-92 have been cancelled, and the amended claims 26-27 and 29 incorporate the subject matter of the canceled base and intervening claims from which they depend. The amendments are believed to place the claims in condition for allowance. No new matter is added by way of these amendments.

In view of the above amendments, Applicants believe the pending application is in condition for allowance.

IV. Rejections Under 35 U.S.C. §112, First Paragraph “Enablement”

Claims 1-17, 19-22, 52-57, 59, 73, and 79-92 have been rejected as allegedly failing to comply with 35 U.S.C. 112, paragraph one, the enablement requirement.

Applicants maintain that the specification teaches that a limited number of proteins would have the specified sequence identity, reduced antibody cross-reactivity, and desired folding pattern to be suitable scaffold candidates. Skilled artisans would be more than able to practice the present invention without under experimentation in view of the substantial examples and guidance provided in the specification and highlighted herein. Furthermore, the explicit guidance provided throughout the specification allows the claimed protein variants to be produced without undue experimentation by one skilled in the art.

However, in order to expedite prosecution of the present case, and without conceding the Examiner’s position or the validity of the rejection, claims 1-17, 19-22, 52-57, 59, 73, and 76-92 have been cancelled without prejudice or disclaimer. Thus, it is believed that the basis for the rejections under 35 U.S.C. 112, paragraph one, enablement, have now been obviated. Applicants therefore respectfully request that these rejections be withdrawn.

V. Rejections Under 35 U.S.C. §112, First Paragraph “Written Description”

Claims 1-17, 19-22, 52-57, 59, 73 and 79-92 have been rejected as allegedly failing to comply with 35 U.S.C. 112, paragraph one, the written description requirement.

Applicants maintain that the extensive teachings of the specification and examples reduced to practice provide a more than adequate written description for the full scope of what is claimed.

However, in order to expedite prosecution of the present case, and without conceding the Examiner’s position or the validity of the rejection, claims 1-17, 19-22, 52-57, 59, 73, and 79-92

have been cancelled without prejudice or disclaimer. Thus, it is believed that the basis for the rejections under 35 U.S.C. 112, paragraph one, written description, have now been obviated. Applicants therefore respectfully request that these rejections be withdrawn.

VI. Rejections Under 35 U.S.C. §102(a)

Claims 1-5, 7-9, 11-14, 19-25, 28, 52-57, 76-78, 90-91 have been rejected as allegedly being anticipated by Holm *et al.*, "Molecular Basis of Allergic Cross-Reactivity Between Group I Major Allergens from Birch and Apple" *J. Chromatography B Biomed. Sci. Appl.* (2001) 756:307-313 ("Holm"). Applicants maintain that each and every element of the claims is not disclosed in Holm.

However, in order to expedite prosecution of the present case, and without conceding the Examiner's position or the validity of the rejection, claims 1-5, 7-9, 11-14, 19-25, 28, 52-57, 76-78, 90-91 have been cancelled without prejudice or disclaimer. Thus, it is believed that the basis for the rejections under 35 U.S.C. 102 (a) have now been obviated. Applicants therefore respectfully request that these rejections be withdrawn.

VII. Rejections Under 35 U.S.C. §103(a)

Claims 1, 6, 79-89, and 92 have been rejected under 35 U.S.C. 103(a) as allegedly being obvious in view of Holm. Applicants maintain that there is nothing in the Holm reference that would suggest or direct one skilled in the art to make the presently claimed recombinant proteins; it is the present patent application that provides these teachings.

However, in order to expedite prosecution of the present case, and without conceding the Examiner's position or the validity of the rejection, claims 1, 6, 79-89, and 92 have been cancelled without prejudice or disclaimer. Thus, it is believed that the basis for the rejections under 35 U.S.C. 103 (a) have now been obviated. Applicants therefore respectfully request that these rejections be withdrawn.

CONCLUSION

In view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue. Applicants reserve the right to pursue the canceled and/or non-elected subject matter in one or more continuation or divisional applications.

If there are any other issues remaining, which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 29, 2006

Respectfully submitted,

By 
Amy G. Klann

Registration No.: 48,155
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant